

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2009-342-W/S

RE: Review of Avondale Mills,)
Incorporated's Rates Approved)
in Order No. 2009-394)

EXHIBIT A

WATERWORKS ASSET PURCHASE AGREEMENT

This **WATERWORKS ASSET PURCHASE AGREEMENT** (this "Agreement") is entered into this ~~22nd~~ day of October, 2009 by and between **AVONDALE MILLS, INC.**, a corporation organized under the laws of the State of Alabama and having an address at 506 South Broad Street, Monroe, Georgia ("Avondale"), and **VALLEY PUBLIC SERVICE AUTHORITY** ("VPSA"), a special purpose district and a political subdivision of the State of South Carolina.

WITNESSETH:

WHEREAS, VPSA was originally created under Act No. 476 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 1969, as amended, and is duly authorized and empowered to acquire, construct, operate, maintain, improve, and extend facilities to treat and supply water, to provide sewage and solid waste collection and disposal, and to sell water and sewer service within its authorized service area;

WHEREAS, under those statutory authorities, VPSA operates a waterworks and sewer system that serves customers in Aiken County, South Carolina (the "County");

WHEREAS, Avondale is a corporation organized under the laws of the State of Alabama;

WHEREAS, it is the desire and intent of the parties that, upon satisfaction of the terms and conditions of this Agreement, Avondale will sell and convey its rights, title and interest in and to the following assets, other than certain excluded assets, to VPSA: (a) a currently non-operating water treatment facility (the "Facility"); and (b) the water lines, drainage lines and pipelines and the attached pumps and tanks located on, under, upon, across and through Aiken County, South Carolina and used for the purpose of supplying and distributing potable water (collectively, the "Water Lines," and collectively with the Facility, the "Avondale Water System");

WHEREAS, VPSA desires to purchase and accept Avondale's rights, title and interest in and to the Avondale Water System in an as-is, where-is condition;

WHEREAS, in connection with and as a condition to this Agreement, Avondale will sell and convey its rights, title and interest in and to the following assets, other than certain excluded assets, to the County: the sanitary and storm sewer and drainage lines and pipelines and lift stations located on, under, upon, across and through Aiken County, South Carolina and used for the purpose of collecting and removing wastewater (collectively, the "Sewer System") pursuant to the Sewer System Asset Purchase Agreement, to be executed by Avondale and the County (the "Sewer System Asset Purchase Agreement");

NOW, THEREFORE, in consideration of the mutual promises contained herein the parties agree as follows:

ARTICLE I DEFINITIONS

"Agreement" means this Waterworks Asset Purchase Agreement between Avondale and VPSA.

"Avondale" means Avondale Mills, Inc., a corporation organized under the laws of the State of Alabama.

"Avondale Water System" has the meaning given to such term in the factual recitals to this Agreement.

"Closing" means the closing of the transfer of the Avondale Water System, on the terms and conditions established by and as described in this Agreement.

"Closing Date" means the date on which the Closing occurs.

"County" means Aiken County, South Carolina.

"DHEC Permit" has the meaning given to such term in Section 2.4 hereof.

"Due Diligence Investigation" has the meaning given to such term in Section 4.1 hereof.

"Due Diligence Period" means the period from the date hereof until January 31, 2010.

"Excluded Assets" has the meaning given to such term in Section 2.3 hereof.

"Excluded Liabilities" has the meaning given to such term in Section 2.4 hereof.

"Facility" has the meaning given to such term in the factual recitals to this Agreement.

"Purchased Assets" has the meaning given to such term in Section 2.3 hereof.

"Real Estate Rights" has the meaning given to such term in Section 2.3(a) hereof.

"Sewer Capacity" means Avondale's capacity in a wastewater treatment plant owned and operated by the County.

"Sewer System" has the meaning given to such term in the factual recitals to this Agreement.

"Sewer System Asset Purchase Agreement" has the meaning given to such term in the factual recitals to this Agreement.

"Upgrade Subsidies" means such local, state, federal, and other grants or low-interest loans as may be available to fund the costs of retrofitting, improving, upgrading, repairing, and renovating the Avondale Water System.

"VPSA" means Valley Public Service Authority, a special purpose district and a political

subdivision of the State of South Carolina.

"Water Lines" has the meaning given to such term in the factual recitals to this Agreement.

"Water Project" means the project by VPSA relating to the Avondale Water System, as described in the Preliminary Engineering Report prepared by Dunn & Associates Engineering, Inc., and attached hereto as Exhibit A.

ARTICLE II TRANSFER OF AVONDALE WATER SYSTEM; CONSIDERATION

Section 2.1. Conveyance.

(a) Subject to the conditions set forth in this Agreement and excluding the Excluded Assets (as defined below), on the Closing Date, (i) Avondale shall sell and convey all of its rights, title and interest in and to the Purchased Assets to VPSA, and (ii) VPSA shall purchase and accept the Purchased Assets. The instruments of such conveyance (i) shall be in the form that is usual and customary for transferring the type of property involved under the laws of the State of South Carolina and shall contain the disclaimer language set forth in Section 2.1(b), and (ii) shall be in form and substance reasonably satisfactory to VPSA and Avondale and their respective counsel; provided, however, in no event should Avondale be required to convey its rights, title and interest in and to the Purchased Assets other than pursuant to a conveyancing instrument containing no warranties of title.

(b) VPSA ACKNOWLEDGES AND AGREES THAT, EXCEPT AS SET FORTH IN THIS AGREEMENT, AVONDALE HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, STATUTORY, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PURCHASED ASSETS; INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PURCHASED ASSETS, (C) THE SUITABILITY OF THE PURCHASED ASSETS FOR ALL OR ANY ACTIVITIES OR USES WHICH VPSA MAY CONDUCT THEREON OR THEREWITH, (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PURCHASED ASSETS, (E) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PURCHASED ASSETS, (F) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PURCHASED ASSETS OR (G) THE TITLE TO THE PURCHASED ASSETS. VPSA FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PURCHASED ASSETS, VPSA IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PURCHASED ASSETS AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY AVONDALE AND ACCEPTS THE PURCHASED ASSETS AND WAIVES ALL OBJECTIONS OR CLAIMS AGAINST AVONDALE (INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PURCHASED ASSETS OR TO ANY HAZARDOUS MATERIALS ON

THE PURCHASED ASSETS. VPSA FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PURCHASED ASSETS WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT AVONDALE HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. AVONDALE IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE PURCHASED ASSETS, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, INCLUDING AVONDALE PERSONNEL OR REPRESENTATIVES. VPSA FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PURCHASED ASSETS AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS, WHERE IS," CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE PURCHASED ASSETS HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT ALL OF THE PURCHASED ASSETS IS SOLD BY AVONDALE AND PURCHASED BY VPSA SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING AND SHALL BE INCLUDED IN ANY CONVEYANCING DOCUMENTS FROM AVONDALE TO VPSA.

Section 2.2. Consideration. Subject to the conditions set forth in this Agreement and excluding the Excluded Assets (as defined below), Avondale and VPSA agree that, as consideration for VPSA's assumption of liabilities pursuant to Section 2.4, Avondale shall sell and convey all of its rights, title and interest in and to the Purchased Assets to VPSA and shall compensate VPSA as follows:

(a) *Cash Payment.* Avondale has previously advanced the amount of One Hundred Seventy-Five Thousand Dollars (\$175,000) to VPSA. VPSA agrees to provide Avondale relevant receipts accounting for such amounts. In addition, Avondale shall pay VPSA the amount of One Million Dollars (\$1,000,000), as follows: (i) after execution of this Agreement, Avondale shall promptly reimburse VPSA for its engineering, legal, appraisal, evaluation, and diligence fees and expenses relating to the evaluation of the Avondale Water System, *provided* that VPSA provides Avondale relevant receipts accounting for such amounts and the amount payable pursuant to this clause shall not exceed Two Hundred Thousand Dollars (\$200,000); and (ii) Avondale shall pay the remaining balance either on the Closing Date or at such time thereafter as may be requested in writing by VPSA. The parties agree that any amounts paid pursuant to clause (i) of this Section 2.2(a) shall not be contingent on the Closing of the acquisition of the Purchased Assets, and in the event that such Closing does not occur, for any reason, VPSA shall have no liability whatsoever to Avondale for repayment of amounts paid hereunder. VPSA agrees that Avondale is not obligated to the agents performing the work pursuant to clause (i) of this Section 2.2(a), and Avondale's only obligation is to VPSA. The parties agree that any amounts payable pursuant to clause (ii) of this Section 2.2(a) shall be contingent on the Closing of the acquisition of the Purchased Assets, and in the event that such Closing does not occur, for any reason, Avondale shall have no liability whatsoever to VPSA for payment of such amounts.

(b) *Sewer Capacity.* Avondale shall convey or release its rights to the Sewer

Capacity to the County without further charge or condition.

Section 2.3. Purchased Assets. Subject to the conditions set forth in this Agreement and excluding the Excluded Assets (as defined below), on the Closing Date, Avondale will sell and convey its rights, title, and interest in and to, and VPSA will accept Avondale's rights, title, and interest in and to, the Avondale Water System, including without limitation the following:

(a) *Interests in Real Property and Fixtures.* (i) All of Avondale's land rights in fee to the property set forth in Exhibit B to this Agreement, together with the buildings (if any), structures, pipes, fixtures, and other improvements located thereon; (ii) all of Avondale's other interests in the real property as set forth in Exhibit C to this Agreement, including easements, rights of way, leaseholds, licenses, and all other rights representing less than fee ownership; (iii) all improvements that relate specifically to the Avondale Water System located on the property described on Exhibit B and Exhibit C; and (iv) all of Avondale's rights, title and interest in and to the Water Lines (collectively, the "Real Estate Rights").

(b) *Raw Water.* All of Avondale's rights in the 750,000 gallons of raw water per day pursuant to the Asset Purchase Agreement between Avondale and GAC Holdings, LLC, a South Carolina limited liability company, dated as of April 3, 2007, as amended as of September 24, 2007 (the "GAC Agreement").

(c) *Personal Property.* All of Avondale's rights in the personal property located at the Facility as of the Closing Date.

(d) *Equipment and Inventory.* All of Avondale's rights in the materials, supplies, equipment, and inventory located at the Facility as of the Closing Date.

The assets, property, and business of Avondale to be sold to and purchased by VPSA, excluding the Excluded Assets, under this Agreement are hereinafter sometimes referred to as the "Purchased Assets."

The "Excluded Assets" consist of the following: the Sewer System; performance bonds or letters of credit with the South Carolina Public Service Commission or other regulatory body; all contracts and agreements of Avondale; all cash and cash equivalents of Avondale; intellectual property, such as trade names, service names, logos, owned or licensed computer software and other like proprietary rights of Avondale (including, as applicable, the trade names "Avondale" and "Avondale Mills"); all financial, accounting, tax, personnel, and other books and records; accounts receivable; prepayments, deposits, or refunds of income taxes; and all rights that accrue to Avondale under this Agreement.

VPSA shall have the right, but not the obligation, to elect to acquire the Gregg Plant fire loop. Such election shall be made in writing no later than the date that is thirty days after the date of this Agreement. In the event that VPSA does not elect to acquire the Gregg Plant fire loop in writing during the thirty-day period, then the definition of "Excluded Assets" herein shall be deemed to include the Gregg Plant fire loop.

Section 2.4. Assumption of Liabilities.

(a) Except as provided in Section 2.4(d), on the Closing Date, VPSA agrees to assume all liabilities, obligations and duties related to the Purchased Assets that arise after the Closing Date.

(b) On the Closing Date, and except as otherwise provided in this subsection (b), VPSA agrees to assume all liabilities, obligations and duties of Avondale set forth in (i) Limited Warranty Deed from Avondale to GAC, LLC, recorded in Book 4169, pages 64-82, Aiken County, South Carolina, (ii) Limited Warranty Deed from Avondale to GAC Holding, LLC, recorded in Book 4169, pages 40-63, Aiken County, South Carolina, (iii) Limited Warranty Deed from Avondale to Community Environmental Company, LLC, recorded in Book 4169, pages 19-39, Aiken County, South Carolina, (iv) Limited Warranty Deed from Avondale to Tower Graniteville, LLC, recorded in Book 4144, pages 927-935, Aiken County, South Carolina and (v) any and all other conveyancing documents granted by Avondale prior to Closing and on which a portion of the Purchased Assets are located; provided however, in no event shall VPSA assume or be deemed to assume any warranties of title granted by Avondale pursuant to the foregoing documents described in (i) through (v) above.

(c) On the Closing Date, VPSA shall assume all liabilities, obligations and duties of Avondale with respect the Public Water System Operating Permit #0240002 issued by the South Carolina Department of Health and Environmental Control regarding operation of the Avondale Water System (the "DHEC Permit").

(d) On the Closing Date, VPSA shall not assume or be liable for any of the following obligations, liabilities, or duties of Avondale (collectively, the "Excluded Liabilities"):

(1) any liability of Avondale incurred in connection with this Agreement and the transactions provided for herein, including brokerage, accounting, and counsel fees, transfer and other taxes, and expenses pertaining to the performance by Avondale of its obligations hereunder;

(2) any liability or obligation of Avondale arising under any contract or agreement, except for the DHEC Permit;

(3) any obligations to Avondale's employees, including without limitation any obligations arising under any employee retirement program, health care plan, or other benefit plan;

(4) any litigation, proceeding, claim by any person or entity, or other obligation of Avondale arising out of events occurring prior to the Closing Date; and

(5) any obligations under environmental, antitrust, civil rights, health, safety, labor, and discrimination laws arising out of events occurring prior to the Closing Date.

Section 2.5. Limitation of Liability. VPSA agrees that, to the fullest extent permitted by law, Avondale shall not be liable to VPSA for any claims, losses, costs, damages of any nature whatsoever or claims for expenses from any cause or causes, except for Excluded Liabilities.

Section 2.6. Closing. The Closing shall take place at the offices of VPSA at 10:00 a.m., local time, on such date as may be determined by the parties but in no event later than January 31, 2010. This Agreement shall automatically terminate if the Closing has not occurred on or prior to January 31, 2010.

ARTICLE III UPGRADE SUBSIDIES

Section 3.1. Use of Upgrade Subsidies. It is currently intended that VPSA shall apply the Upgrade Subsidies, if and when received, to the costs of the Water Project. To the extent that the Upgrade Subsidies are insufficient to fully accomplish the Water Project, VPSA shall determine in its sole discretion which portions of the Water Project it shall undertake, and shall be under no obligation to complete the Water Project or to apply any funds other than the Upgrade Subsidies for any portion of the Water Project. Avondale shall cooperate reasonably with VPSA (such cooperation not to require any out-of-pocket costs) in applying for the Upgrade Subsidies and for all additional grants or low-interest-rate loans as may be necessary or useful for accomplishing the purposes of this Agreement; provided, however, and for the avoidance of doubt, other than its agreement to cooperate as described above, Avondale has no responsibility or obligation whatsoever with respect to the Upgrade Subsidies.

Section 3.2. Application for Upgrade Subsidies. VPSA shall endeavor to submit in a timely fashion all plans, reports, specifications, applications, and supporting documentation that must be presented to State and federal authorities in connection with the applications for the Upgrade Subsidies. VPSA shall hold all monetary grants or loans awarded to VPSA, in accordance with the terms and conditions upon which such grants or loans are made. VPSA shall commence construction and renovation in a timely fashion as required by the terms and conditions upon which the grants or loans are made.

ARTICLE IV DUE DILIGENCE PERIOD

Section 4.1. Due Diligence Period. During the Due Diligence Period, VPSA may conduct such diligence, investigations, inquiries, tests, sampling, reviews, and research as it may reasonably request (the "Due Diligence Investigation") prior to accepting the conveyance of the Purchased Assets; provided that (a) such diligence, investigations, inquiries, tests, sampling, reviews, and research is under the supervision of Avondale during normal business hours and subject to the rights of the owners and operators of the properties on which the Purchased Assets are located and (b) that no site inspection may involve a Phase II level examination or other invasive technique unless Avondale consents thereto in writing. Avondale shall cooperate reasonably with VPSA in the Due Diligence Investigation. VPSA agrees to promptly repair and restore any and all damage caused to the Purchased Assets arising out of or related to the exercise of the rights granted to VPSA under this Section 4.1.

Section 4.2. Information to be Furnished by Avondale. To the extent that such information is not attached as an exhibit or schedule to this Agreement, then as promptly as is practicable and in no event more than sixty days after the date hereof, Avondale shall assemble and make available to VPSA the following information:

- (a) Avondale's articles of incorporation and bylaws;
- (b) copies of all resolutions, corporate actions, and minutes relating to the proposed sale of the Avondale Water System to VPSA;
- (c) surveys and legal descriptions relating to the Real Estate Rights to the extent that such information exists and is in Avondale's possession;
- (d) all security instruments with respect to the Real Estate Rights, personal property, fixtures, equipment, inventory, and accounts relating to the Avondale Water System, including without limitation mortgages, liens, leases, control agreements, and U.C.C. filings to the extent such information exists and is in Avondale's possession;
- (e) all environmental permits and licenses; and consent orders and permits relating to the Avondale Water System to the extent that such information exists and is in Avondale's possession;
- (f) all financial audits, financial statements, amounts paid for water supply and sewer treatment, customer billing records, capital expenditures, and significant repairs relating to the Avondale Water System since January 1, 2007 to the extent that such information exists and is in Avondale's possession;
- (g) all material pending and threatened legal actions relating to the Avondale Water System, if any;
- (h) all material contracts relating to the Avondale Water System to the extent that such information exists and is in Avondale's possession;
- (i) all records regarding accounts receivable, accounts payable, billing, and meter reading relating to the Avondale Water System and the Sewer System; and
- (j) such other information relating to the Avondale Water System as may be reasonably requested by VPSA and in Avondale's possession.

Section 4.3. Termination. If VPSA determines during the Due Diligence Period that it does not desire to accept the conveyance of the Avondale Water System, for any reason (including, without limitation, as a result of information discovered during the Due Diligence Investigation, because of the unavailability or insufficiency of the Upgrade Subsidies, or because the governing body of VPSA determines that the acquisition of the Avondale Water System is not in the best interests of VPSA's existing customers or is otherwise not desirable), then VPSA shall have the right to terminate this Agreement. In such event, VPSA shall have no further obligation to Avondale or liability under this Agreement whatsoever. Avondale shall be and remain responsible for the payment of costs incurred prior to the date of the termination and payable prior to such time pursuant to Section 2.2 of this Agreement, but shall have no further obligation to VPSA or liability under this Agreement whatsoever.

ARTICLE V REPRESENTATIONS AND WARRANTIES

Section 5.1. Representations and Warranties of Avondale. Avondale represents and warrants to VPSA as follows:

(a) *Authority to Execute and Perform Agreements.* Avondale has the full legal right and power and all authority and approvals required to enter into, execute, and deliver this Agreement and to fully perform its obligations hereunder. This Agreement has been duly executed and delivered and is the valid and binding obligation of Avondale, enforceable in accordance with its terms.

(b) *Compliance with Law.* Except as set forth on Schedule 5.1(c),

(i) Avondale is not in violation of any order, judgment, injunction, award, or decree binding upon it with respect to the ownership, operation, and maintenance of the Avondale Water System, except such violation that would not have a material adverse effect on the Avondale Water System.

(ii) Avondale is not in violation of any federal, State, local, or foreign law, ordinance, permit, or regulation or any other requirement of any governmental or regulatory body, court, or arbitrator with respect to the ownership, operation, and maintenance of the Avondale Water System, except such violation that would not have a material adverse effect on the Avondale Water System.

(c) *Actions and Proceedings.* Except as set forth on Schedule 5.1(d), there are no actions, suits, or claims or legal, administrative, or arbitral proceedings pending or, to the best knowledge of Avondale, threatened against or involving Avondale relating to the Avondale Water System, except such actions, suits, or claims or legal, administrative, or arbitral proceedings that would not have a material adverse effect on the Avondale Water System.

(d) *Real Property.* To the best knowledge of Avondale, Exhibit B contains a legal description and tax parcel identification number of all tracts, parcels, and subdivided lots in which Avondale has an interest and which are used in connection with the Avondale Water System.

Section 5.2. Representations and Warranties of VPSA. VPSA represents and warrants to Avondale as follows:

(a) *Organization and Qualification.* VPSA is a special purpose district and a political subdivision, validly existing, and in good standing under the laws of South Carolina. VPSA has lawful authority to carry on the business of the Avondale Water System as now being conducted.

(b) *Authority to Execute and Perform Agreements.* VPSA has the power and all authority and approvals required to enter into, execute, and deliver this Agreement and to fully perform its obligations hereunder. This Agreement has been duly executed and delivered and is the valid and binding obligation of VPSA enforceable in accordance with its terms.

(c) *Actions and Proceedings.* There are no actions, suits, or claims, legal, administrative, or arbitral proceedings pending or, to the best knowledge of VPSA, threatened against or involving

VPSA that individually or in the aggregate could have a material adverse effect upon the transactions contemplated hereby. To the best knowledge of VPSA, there is no fact, event, or circumstance that may give rise to any suit, action, claim, investigation, or proceeding that individually or in the aggregate could have a material adverse effect upon the transactions contemplated hereby.

Section 5.3. Continued Effectiveness of Representations and Warranties. From the date hereof through the Closing Date, Avondale shall use reasonable efforts to conduct its business and affairs in such a manner so that the representations and warranties contained in Section 5.1 hereof shall continue to be true and correct in all material respects on and as of the Closing Date as if made on and as of the Closing Date. Avondale shall promptly notify VPSA of any event, condition, or circumstance occurring from the date hereof through the Closing Date that would constitute a violation or breach of this Agreement or that would cause a representation or warranty herein made to be untrue or misleading in any material respect. Such notification shall be deemed to avoid or cure any misrepresentation or breach of warranty or constitute an amendment of any representation, warranty, or statement in this Agreement.

Section 5.4. Survival. The representations and warranties set forth in this Article V shall not survive the Closing Date.

ARTICLE VI COVENANTS; OTHER UNDERTAKINGS

Section 6.1. Avondale Conduct of Business. (a) *Affirmative Covenants Pending Closing.* During the period from the date hereof to the Closing Date, Avondale shall use commercially reasonable efforts to maintain all of the Purchased Assets, in accordance with past practices and at a quality that is currently maintained.

(b) *Negative Covenants Pending Closing.* During the period from the date hereof to the Closing Date, Avondale shall not

(i) sell, exchange, transfer, mortgage, pledge, or create or permit to be created any security interest on any of the Purchased Assets, other than in the ordinary course of business; or

(ii) knowingly incur any obligation or liability of or affecting the Avondale Water System, other than in the ordinary course of Avondale's business.

Section 6.2. Accounts Receivable. Subsequent to the Closing, VPSA shall have the right and authority to collect all accounts receivable for water services rendered before the Closing Date. VPSA agrees that it will promptly transfer or deliver to Avondale any cash or other property that VPSA may receive with respect to such accounts receivable; *provided, however, that VPSA shall be entitled to retain an administrative fee not to exceed 10% of the collected accounts receivable for its costs and expenses incurred in collecting any such amounts.*

Section 6.3. VPSA Conduct of Business. Beginning immediately following the Closing, VPSA shall (i) operate the Avondale Water System in compliance with applicable regulations, (ii) provide adequate water services to the customers of the Avondale Water System, and (iii) enter into such undertakings and arrangements as may be necessary to provide adequate water services to the

customers of the Avondale Water System. Additionally, immediately following the Closing, VPSA shall notify and provide contact information to the Graniteville fire department of its ownership of the Avondale Water System.

Section 6.4. Further Assurances. Prior to and after the Closing Date, each of the parties shall execute such documents, further instruments of transfer and assignment, and other papers and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated hereby.

ARTICLE VII CONDITIONS TO CLOSING

Section 7.1. Conditions to Closing for Avondale. The obligation of Avondale to consummate the transactions contemplated by this Agreement is subject to the satisfaction (or waiver) on or prior to the Closing Date of each of the following conditions:

(a) *Representations and Warranties.* The representations and warranties of VPSA contained in this Agreement shall be true and accurate as of the date hereof and shall be true and accurate as of the Closing Date with the same force and effect as though made on and as of the Closing Date. VPSA shall have performed and complied with all covenants and agreements required by this Agreement to be performed or complied with on or prior to the Closing Date. VPSA shall have delivered to VPSA a certificate, dated the Closing Date and signed by an authorized officer, to the foregoing effect and stating that all conditions to VPSA's obligations hereunder have been satisfied.

(b) *Litigation.* No action, suit, or proceeding shall have been instituted before any court or governmental or regulatory body, or instituted or threatened by any governmental or regulatory body, to restrain, modify, or prevent the carrying out of the transactions contemplated by this Agreement, or to seek damages or a discovery order in connection with such transactions, or that has or may have a materially adverse effect on the assets, properties, business, operations, or condition (financial or otherwise) of Avondale.

(c) *Public Service Commission.* The South Carolina Public Service Commission shall have approved the conveyance of the Avondale Water System, or VPSA shall have received written confirmation that such approval is not required.

(d) *DHEC Permit.* The South Carolina Department of Health and Environmental Control shall have approved the conveyance of the Avondale Water System and the transfer of the DHEC Permit.

(e) *DHEC Consent Order.* The South Carolina Department of Health and Environmental Control shall have agreed to remove Avondale from the consent order regarding the Avondale Water System.

(f) *GAC Consent.* Avondale shall have obtained the required consent pursuant to the GAC Agreement.

(g) *Other Consents and Approvals.* Avondale and VPSA shall have obtained all other

consents or approvals that are required in order to convey all of Avondale's rights, title and interest in and to the Purchased Assets to VPSA.

(h) *Sewer System Asset Purchase Agreement.* The conveyance of the Sewer System and the conveyance or release of the Sewer Capacity to the County pursuant to the Sewer System Asset Purchase Agreement shall occur contemporaneously with the Closing.

Section 7.2 Conditions to Closing for VPSA. The obligation of VPSA to consummate the transactions contemplated by this Agreement is subject to the satisfaction (or waiver) on or prior to the Closing Date of each of the following conditions:

(a) *Due Diligence Investigation.* VPSA shall have satisfactory completed the Due Diligence Investigation, subject to its right to terminate for any of the reasons described in Section 4.3 hereof.

(b) *Representations and Warranties.* The representations and warranties of Avondale contained in this Agreement shall be true and accurate as of the date hereof and shall be true and accurate as of the Closing Date with the same force and effect as though made on and as of the Closing Date. Avondale shall have performed and complied with all covenants and agreements required by this Agreement to be performed or complied with on or prior to the Closing Date. Avondale shall have delivered to VPSA a certificate, dated the Closing Date and signed by an authorized officer, to the foregoing effect and stating that all conditions to VPSA's obligations hereunder have been satisfied.

(c) *Litigation.* No action, suit, or proceeding shall have been instituted before any court or governmental or regulatory body, or instituted or threatened by any governmental or regulatory body, to restrain, modify, or prevent the carrying out of the transactions contemplated by this Agreement, or to seek damages or a discovery order in connection with such transactions, or that has or may have a materially adverse effect on the assets, properties, business, operations, or condition (financial or otherwise) of Avondale.

(d) *Delivery of Instruments of Transfer.* Avondale shall have delivered or caused to be delivered to VPSA instruments of transfer in conformity with Article II of this Agreement.

(e) *No Material Change.* There shall have been no material adverse change in the financial condition, business, assets, operations, or prospects of the Avondale Water System.

(f) *Service Area.* The County shall have taken appropriate legal action to expand the legal service area of VPSA to allow service in the area currently served by the Avondale Water System.

(g) *Sewer Capacity.* VPSA and the County shall have entered into an agreement by which the County will convey the Sewer Capacity to VPSA on terms and conditions that are acceptable to VPSA in its discretion.

(h) *Third Parties.* VPSA shall have received evidence of the receipt of all authorizations, consents, and permits of others required to permit the consummation by VPSA and Avondale of the transactions contemplated by this Agreement and to allow the

consummation of the Water Project, as may be modified or supplemented after the date hereof.

(i) *Upgrade Subsidies; Financing.* VPSA shall have received adequate written assurances of the availability of sufficient Upgrade Subsidies such that VPSA shall not be required to borrow more than Three Million Dollars (\$3,000,000) to complete the Water Project as may be modified or supplemented after the date hereof. VPSA shall have further received adequate written assurances that it will be able to borrow up to Three Million Dollars (\$3,000,000) to complete the Water Project on terms and conditions that are acceptable to VPSA in its sole discretion.

(j) *Public Service Commission.* The South Carolina Public Service Commission shall have approved the conveyance of the Avondale Water System, or VPSA shall have received written confirmation that such approval is not required.

(k) *Rates.* VPSA shall have received written confirmation from all requisite State and federal agencies that VPSA may charge rates to customers of the Avondale Water System that are different from the rates charged to the current customers of the VPSA system, and shall have received feasibility studies acceptable to VPSA that such rates shall be sufficient to pay all debt service, capital costs, and operational and maintenance expenses associated with the Avondale Water System.

(l) *Lost Water.* Avondale shall cause the Lost Water in the Avondale Water System to be no more than (i) twenty percent (20%) on average during the months of October, November, and December 2009, or (ii) twenty-five percent (25%) during the month of October 2009, and twenty percent (20%) during the months of November and December 2009. Lost Water in the Avondale Water System shall be calculated as follows:

(1) In each calendar month following the execution and delivery of this Agreement and prior to the Closing, Avondale shall document the amount of potable water in thousands of gallons that it purchases for the Avondale Water System (the "Monthly Purchased Water").

(2) In each calendar month following the execution and delivery of this Agreement and prior to the Closing, Avondale shall document the aggregate amount of water it bills to customers of the Avondale Water System for consumption during such month (the "Monthly Billed Water").

(3) At such time as the forgoing information is available to Avondale, it shall determine the amount of Monthly Lost Water as follows: (Monthly Purchased Water) MINUS (Monthly Billed Water) DIVIDED BY (Monthly Purchased Water), expressed as a percentage, EQUALS the "Monthly Lost Water," for the calendar month to which the calculation applies.

(4) Lost Water in the Avondale Water System shall be calculated by determining the average amount of the Monthly Lost Water for each of the calendar months immediately preceding the Closing Date.

VPSA shall be entitled to such assurances and supporting data with respect to the Lost Water in the Avondale System as it may reasonably request, including if necessary the right to perform its own readings of the Avondale Water System water meters.

Section 7.3. Limitations of Conditions. Each party shall use its reasonable best efforts to satisfy their conditions; provided, however, if a condition is not satisfied and the other party decides to waive such condition and close the transaction, the party that did not satisfy its condition shall have no liability to the other party.

ARTICLE VIII MISCELLANEOUS

Section 8.1. No Other Agreements. Avondale represents and warrants that (a) it is not a party to any other agreements with respect to the purchase, sale, or conveyance of the Avondale Water System and (b) it is not aware of any other agreement by third parties currently in effect with respect to the purchase, sale, or conveyance of the Avondale Water System.

Section 8.2. Binding Effect: Successors. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, *provided* that neither party may not assign its rights and obligations hereunder without the prior written consent of the other party.

Section 8.3. Choice of Law: Venue. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of South Carolina without giving effect to any choice or conflict of law provision or rule (whether of the State of South Carolina or any other jurisdiction). Any dispute arising hereunder shall be heard in the Court of Common Pleas for Aiken County, South Carolina.

Section 8.4. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement, as amended or supplemented from time to time.

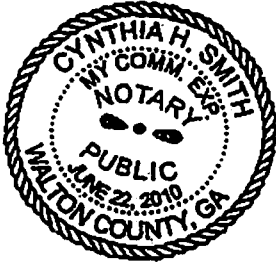
Section 8.5. Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

IN WITNESS WHEREOF, the parties do hereby execute this Agreement to evidence the agreement in principal to the terms hereof and to evidence the intent of the parties to cooperate to finalize the proposed transactions.

Signed, sealed and delivered
in the Presence of

Avondale Mills, Inc., a Alabama corporation,

Cynthia H. Smith



[SEAL]
Jack R. Altherr, Jr.
By: JACK R. ALTHERR, JR.
Its: PRESIDENT & CEO

Valley Public Service Authority, a special
purpose district and a political subdivision of the
State of South Carolina

[SEAL]

By: _____
Its: _____

IN WITNESS WHEREOF, the parties do hereby execute this Agreement to evidence the agreement in principal to the terms hereof and to evidence the intent of the parties to cooperate to finalize the proposed transactions.

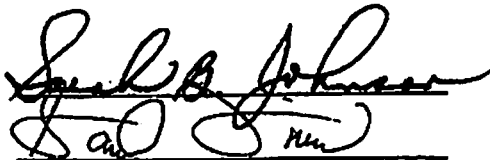
Signed, sealed and delivered
in the Presence of

Avondale Mills, Inc., a Alabama corporation,


[SEAL]

By: _____
Its: _____

Valley Public Service Authority, a special
purpose district and a political subdivision of the
State of South Carolina



[SEAL]


By: O. H. Gibson
Its: Chairman

**AVONDALE MILLS, INC.
GRANITEVILLE WATER & SEWER SYSTEMS
BILLING & COLLECTION SUMMARY
AS OF OCTOBER 28, 2009**

<u>Month</u>	<u>Number Customers Billed</u>	<u>Net Amount Billed</u>	<u>Adjustments</u>	<u>Cash Collections</u>	<u>Remaining Balance</u>	<u>Percent Paid</u>	<u>Number Paid In Full</u>	<u>Percent Paid In Full</u>
July	616	\$56,659.00	(\$76.60)	(\$42,058.37)	\$13,824.03	75.26%	483	78.41%
August	611	43,596.40	(376.41)	(28,997.10)	14,222.89	67.09%	437	71.52%
September	607	40,708.10	(611.07)	(22,616.69)	17,480.34	56.40%	310	51.07%

Note: Cash collections applied to oldest outstanding invoice first.

November 6, 2009

On June 18, 2009, the South Carolina Public Service Commission approved new rates for the Graniteville/Vaughn water and sewer operation. We implemented the new rates in our July 2009 bills and included a copy of the new rates in our mailing of those bills. Subsequently, a complaint was filed with the Aiken County Circuit Court who issued a temporary injunction precluding us from collecting our July and August 2009 bills for water and sewer services.

We appealed the Circuit Court's action and issuance of the temporary injunction to the South Carolina Supreme Court. On November 4, 2009, the South Carolina Supreme Court ruled that the Circuit Court had no jurisdiction in this matter and vacated the temporary injunction. As a result, we may now collect the July and August 2009 bills.

Well over half of our customers have already paid their July, August and September 2009 water and sewer bills. We very much appreciate your understanding the need for us to increase our rates above the previous rates established in 1980. However, for those who have elected not to pay these bills during the period of the temporary injunction, we now must request payment in full. The July, August and September 2009 bills are now past due and must be paid by November 30, 2009 to avoid further collection action.

Should you have any questions, please do not hesitate to call me at (803) 617-9277 or Ms. Susan Johnson at (803) 663-2174.

Yours very truly,

Jimmy W. Frederick

Jimmy W. Frederick
Graniteville/Vaughn Water and Sewer System
Avondale Mills, Inc.